

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7386

BILL NUMBER: HB 1351

NOTE PREPARED: Feb 13, 2015

BILL AMENDED: Feb 12, 2015

SUBJECT: Agency Rulemaking and Policymaking.

FIRST AUTHOR: Rep. Wolkins

FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill provides that an agency's statutory authority to regulate and implement programs does not include rulemaking or policymaking authority that is not based upon a federal requirement or that exceeds the authority granted to a federal or state agency under federal statutory authority. It provides an exception that rules, guidelines, standards, or other policies that are not based upon a federal requirement or specific statutory authority may be based upon: (1) the general authority of an agency, subject to limits in the grant of the authority and upon the subject matter; or (2) the power to adopt emergency rules.

The bill requires the Legislative Services Agency (LSA) to review proposed and adopted agency rules, guidelines, standards or other policies. It provides that it is not the intent of the general assembly to have the findings or opinions of the LSA regarding legislative intent or an agency's legal authority to be: (1) used as evidence in any investigation or proceeding; or (2) imputed to the general assembly.

The bill also makes changes to the statute requiring distribution of agency statements.

Effective Date: July 1, 2015.

Explanation of State Expenditures: *Regulatory Authority:* The bill provides that an agency's statutory authority to regulate and implement programs does not include rulemaking or policymaking authority that is not based upon a federal requirement or that exceeds the authority granted to a federal or state agency by federal statutory authority.

This provision could affect state and local expenditures and revenues to the extent that it may prohibit the

imposition of rules that could generate more or less revenue or spending by state and local governments. The impact is indeterminable and would depend on the nature and number of rules affected by this bill.

(Revised) *Legislative Services Agency (LSA)*: The bill provides that LSA shall review, if requested by a member of the General Assembly: any proposed and emergency rule submitted for publication in the Indiana Register; any adopted rule submitted to the Attorney General, any proposed and adopted guideline, standard or other policy of an agency; or any rule or policy of the Legislative Council. The review will focus on determining whether the rule, guideline, standard, or policy in question is in accordance with the particular agency's policymaking authority.

It is anticipated that these duties could potentially require the work of one full-time employee. The state staffing table indicates that LSA has a vacant position that could be filled for this purpose.

Explanation of State Revenues: *Regulatory Authority: See Explanation of State Expenditures above.*

Explanation of Local Expenditures: *Regulatory Authority: See Explanation of State Expenditures above.*

Explanation of Local Revenues: *Regulatory Authority: See Explanation of State Expenditures above.*

State Agencies Affected: Rulemaking agencies; Legislative Services Agency.

Local Agencies Affected:

Information Sources: February 2, 2015, State Staffing Table.

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